

**IN UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS**

SHERMAN DIVISION

DATE: 6/9/2020

DISTRICT JUDGE
Amos L. Mazzant, III

COURT REPORTER: Jan Mason
COURTROOM DEPUTY: Keary Conrad

Frostine and Richard Newberry	4:19-CV-147
v.	
Rosa Lopez dba A & R Rent-A-Fence	

ATTORNEYS FOR PLAINTIFF	ATTORNEYS FOR DEFENDANT
Mark Underwood and Melissa Munich	Adam Trevor Hamilton

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

TIME:	MINUTES: Jury Trial - Day 2
9:03 a.m.	Court in session. Court notes appearances.
9:06 a.m.	Defendant Frostine Newberry is reminded she is still under oath. Defendant's counsel, Adam Hamilton continues cross examination of Frostine Newberry.
9:09 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's exhibit 2.
9:10 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 3.
9:16 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 5.
9:17 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 7.
9:20 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 8.
9:30 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 10.
9:35 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 1.
9:41 a.m.	Defendant's counsel, Adam Hamilton refers witness, Frostine Newberry to Defendant's Exhibit 9.

9:42 a.m.	Plaintiff's counsel, Mark Underwood begins re-direct examination of Plaintiff Frostine Newberry.
9:45 a.m.	Defendant's counsel, Adam Hamilton begins re-cross examination of Plaintiff Frostine Newberry.
9:47 a.m.	Court polls the jury for questions.
9:48 a.m.	Bench conference.
9:50 a.m.	Judge questions the witness with jury questions.
9:52 a.m.	Defendant's counsel, Adam Hamilton follow up questions of Plaintiff Frostine Newberry.
9:56 a.m.	Plaintiff's counsel, Mark Underwood follow up questions of Plaintiff Frostine Newberry.
9:57 a.m.	Witness excused.
9:57 a.m.	Plaintiff's counsel, Mark Underwood calls Richard Newberry. Witness placed under oath. Plaintiff's counsel begins direct examination of Frostine Newberry.
10:18 a.m.	Defendant's counsel, Adam Hamilton begins cross examination of Richard Newberry.
10:20 a.m.	Court polls the jury for questions.
10:22 a.m.	Judge questions the witness with jury questions.
10:24 a.m.	Witness excused.
10:25 a.m.	Court recess for 15 minutes.
10:47 a.m.	Plaintiff begins the video deposition of Joe DeFlippo.
11:00 a.m.	Plaintiff begins the video deposition of Norman Cooper.
11:24 a.m.	Defendant begins the video deposition of Norman Cooper.
11:42 a.m.	Plaintiff begins the rebuttal video deposition of Norman Cooper.
11:46 a.m.	Parties discuss Exhibit 2 referenced in the deposition which corresponds to Plaintiff's Exhibit 2.

11:47 a.m.	Plaintiff's counsel, Mark Underwood calls Suzanne Smith. Witness placed under oath. Plaintiff's counsel, Mark Underwood begins direct examination of Suzanne Smith.
11:58 a.m.	Jury excused.
11:59 a.m.	Court adjourned till 1pm.
1:03 p.m.	Court re-convened. Counsel advise Court of stipulation to medical bills.
1:04 p.m.	Jury seated.
1:05 p.m.	Witness Suzanne Smith reminded she is still under oath. Plaintiff's counsel, Mark Underwood continues direct examination of Suzanne Smith.
1:10 p.m.	Defendant's counsel, Adam Hamilton begins cross examination of Suzanne Smith.
1:17 p.m.	Court polls the jury for questions.
1:19 p.m.	Bench conference.
1:21 p.m.	Judge questions the witness with jury questions.
1:22 p.m.	Defendant's counsel, Adam Hamilton follow up questions of Suzanne Smith.
1:23 p.m.	Witness excused.
1:23 p.m.	Plaintiff's counsel, Adam Underwood offers Plaintiff's Exhibit 24 and provides explanation to the jury that Plaintiff's Exhibit 24 is an agreement between the parties as to how much Frostine Newberry's medical bills are as a result of the trip and fall. Court admits Plaintiff's Exhibit 24.
1:25 p.m.	Plaintiff's counsel, Adam Underwood offers Plaintiff's Exhibit 25 and asks the Court to take judicial notice of Plano, Texas Code of Ordinances. Exhibit not admitted.
1:29 p.m.	Plaintiffs rest.
1:29 p.m.	Defendant's counsel, Adam Hamilton begins the video deposition of Joe DeFlippo.
2:26 p.m.	Jury excused. Court recess for 10 minutes.
2:42 p.m.	Court re-convenes. Defendant's counsel, Adam Hamilton calls Arnulfo Rivera. Witness Rivera placed under oath. Defendant's counsel, Adam Hamilton begins direct examination with the assistance of interpreter.

2:54 p.m.	Defendant's counsel, Adam Hamilton refers witness Rivera to Defendant's Exhibit 13.
3:01 p.m.	Defendant's counsel, Adam Hamilton refers witness Rivera to Defendant's Exhibit 16.
3:04 p.m.	Defendant's counsel, Adam Hamilton refers witness Rivera to Defendant's Exhibit 18.
3:06 p.m.	Defendant's counsel, Adam Hamilton refers witness Rivera to Defendant's Exhibit 19.
3:10 p.m.	Defendant's counsel, Adam Hamilton refers witness Rivera to Defendant's Exhibits 21, 26, 27, 28, 29, 30.
3:13 p.m.	Plaintiff's counsel, Don Flanary begins cross examination of Arnulfo Rivera.
3:44 p.m.	Plaintiff's counsel, Don Flanary refers witness Rivera to Defendant's Exhibit 29.
3:48 p.m.	Plaintiff's counsel, Don Flanary refers witness Rivera to Plaintiff's Exhibit 12.
3:49 p.m.	Plaintiff's counsel, Don Flanary refers witness Rivera to Defendant's Exhibit 18.
4:00 p.m.	Court polls the jury for questions.
4:03 p.m.	Judge questions the witness with jury questions.
4:04 p.m.	Defendant's counsel, Adam Hamilton calls Roderick Rennison, Physical Engineer. Mr. Rennison placed under oath. Defendant's counsel, Adam Hamilton begins direct examination of Roderick Rennison.
4:16 p.m.	Plaintiff objection to witness testimony. Bench conference.
4:18 p.m.	Court sustains the Plaintiff's objection. Defendant's counsel, Adam Hamilton continues direct examination of Roderick Rennison.
4:20 p.m.	Objection. Bench conference.
4:23 p.m.	Court overrules Plaintiff's objection. Defendant's counsel, Adam Hamilton continues direct examination of Roderick Rennison.
4:33 p.m.	Plaintiff's counsel, Don Flanary begins cross examination of Roderick Rennison.
4:43 p.m.	Plaintiff's counsel, Don Flanary refers Roderick Rennison Defendant's Exhibit 2.
4:52 p.m.	Plaintiff's counsel, Don Flanary refers Roderick Rennison Plaintiff's Exhibit 28.

4:53 p.m.	Plaintiff's counsel, Don Flanary refers Roderick Rennison Plaintiff's Exhibit 27. Objection to Exhibit by defense. Plaintiff's counsel, Don Flanary offers Plaintiff's Exhibit 27. No objection. Plaintiff's Exhibit 27 is admitted.
5:06 p.m.	Plaintiff's counsel, Don Flanary offers Plaintiff's Exhibit 26. Defense objection to relevance. Objection sustained. Exhibit not admitted.
5:11 p.m.	Court polls the jury for questions.
5:12 p.m.	Bench conference.
5:14 p.m.	Judge questions the witness with jury questions.
5:15 p.m.	Plaintiff's counsel, Don Flanary follow up question.
5:18 p.m.	Witness excused. Defendant's rest.
5:20 p.m.	Plaintiff's close. Defendant's close.
5:20 p.m.	Court hears argument from Plaintiff's regarding Plaintiff's Exhibit 27. Defense renews his objection.
5:22 p.m.	Parties discuss objections to the charge.
5:23 p.m.	Court hears from defense regarding motion for directed verdict on Plaintiff's claims. Court denies the motion for directed verdict. Court will provide new copies of the charge.
5:25 p.m.	Court adjourned.

DAVID O'TOOLE, CLERK

BY: Keary Conrad
Courtroom Deputy Clerk